

REMARKS

Claims 1-30 are pending in the application. Claims 1, 14, 16 and 29 are independent.

Following a telephone interview with the Examiner and the Examiner's Supervisor on October 12, it was agreed that the Examiner would withdraw the previous rejection, conduct a new search, and issue another non-final action or allowance. The Examiner's new search uncovered U.S. Patent Number 6,690,830 (Cote) which the Examiner has combined with the applicant's own previously cited patent to Davies. The Cote reference issued in February 2004 on an application filed May 28, 1999, just two weeks prior to the filing date of the instant application. The applicant's attorneys suggested the possibility of presenting evidence to show a date of conception prior to May 28, 1999 and diligence in the preparation and filing of the application. The Examiner and the Examiner's Supervisor agreed that such evidence would be considered and could possibly overcome the new rejection and result in an allowance of the application.

Following the telephone interview, the Examiner issued the action dated October 22, 2004. In that action, all claims stand rejected as obvious over Davies in view of Cote. The applicant respectfully traverses the rejection on two grounds. First, there

is no suggestion to combine the references as they are concerned with entirely different problems which have nothing to do with each other. Second, credible evidence clearly establishes that the present invention predates the filing date of the Cote reference and that from the filing date of Cote until the filing date of the present application the present application was diligently prepared and filed.

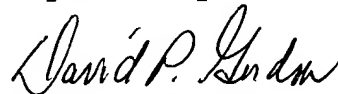
The Davies reference, like the present invention is concerned with network security and the formulation of a graphical password. Cote, on the other hand, is concerned with methods and apparatus for building a composite image from a library of pictorial entities and image qualifiers. Cote's invention is primarily intended for use by law enforcement to assist witnesses in formulating a likeness of a suspect. It is an electronic form of a sketch artist. Cote has nothing to do with network security or passwords. Therefore, it is unlikely that someone in the position of Davies (network security) would look to Cote (image compositing) for suggestions. Similarly, it is unlikely that someone in the position of Cote would look to Davies for suggestions. See, e.g., In re Keller, 202 U.S.P.Q. 500 (C.C.P.A. 1979). "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of the references would have suggested to those

of ordinary skill in the art." It is respectfully submitted that neither reference suggests the combination urged by the Examiner. The fact that Cote may contain a feature which could be incorporated into Davies does not make the combination obvious.

Turning now to the issue of whether Cote is a proper reference, there is attached hereto a Declaration of Paul Wolff together with Exhibits. The Declaration and Exhibits clearly establish that the present invention predates the earliest filing date of the Cote reference, thus eliminating the Cote reference as prior art.

In light of all of the above, it is submitted that all of the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in cursive script, reading "David P. Gordon".

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